IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC.CIVIL APPLICATION NO.65 NO. 2006

Mrs.Vijayshree Rishiu Didwania .. Applicant

vs

Rishi Omprakash Didwania .. Respondent

with MISCELLANEOUS APPLICATION NO.48 OF 2007

Rishi Omprakash Didwania .. Applicant

vs

Smt Vijayshree Rishi Didwania .. Respondent

Mr.S.P.Kadam for Applicant

Mr.S.N.Vaishnava i.b M/s N.N.Vaishnava & Co for Respondent

CORAM : S.A.BOBDE, J

DATED : 17th August, 2007

P.C.

1. This is an application for transfer of the petition for divorce filed by the respondent-husband from the Family Court at Mumbai to the Court at Amravati where the applicant has filed a petition for restitution of conjugal rights. The petition at Mumbai has been filed on 4th March, 2006 and at Aamravati by the wife for restitution on 4th May, 2006.

2. The parties got married in Amravati sometime in the year 2004 and started residing together in Mumbai. According to the learned counsel for the respondent, the applicant-wife was residing at Mumbai even prior to her marriage. Being unable to carry on their life together, the respondent filed a petition for divorce in Family Court at Mumbai on

4th March, 2006 when the parties were living together in Mumbai. Apparently, the applicant then filed a petition for restitution of conjugal rights in the Court at Amravati which is about 700 kms away. She has now applied for transfer of the divorce petition to Amravati. Mr.Kadam, learned counsel for the applicant emphasised that the applicant is a lady and it is therefore necessary in the interest of justice to make an order of transfer of the petition to Amravati. According to the learned counsel, the applicant is residing in Amravati with her father and cannot cannot attend the Family Court at Mumbai.

3. It however, appears from the contention of the learned counsel for the respondent-husband that the applicant is quite familiar with Mumbai city having been residing here for a long time. In fact, from the affidavit filed, it appears that the applicant visits Mumbai even otherwise and has a bank account and place where she can reside in Mumbai. According to her, the mobile phone at Mumbai is meant only for use when she is in Mumbai. This does suggest that the respondent's contention that she visits Mumbai for her own business purpose i.e. fashion designing is highly probable.

4. While normally, it would not be appropriate to transfer the matter from Mumbai to Amravati at the behest of the wife but, in the present case it appears that the applicant, even otherwise has reason to visit Mumbai where she has a place to

stay and that she does visit Mumbai even otherwise.

5. The respondent shall bear the costs of travel of the applicant-wife by air. He shall provide air tickets to her in advance to enable her to travel to Mumbai for the case.

6. In the circumstances, it does not appear appropriate to transfer the matter from Mumbai to Amravati. Application for transfer is hereby dismissed.

(S.A.Bobde, J)